



A REFERENCE DOCUMENT

for Policymakers for

**Supporting advocacy on quality,
stigma free and youth friendly safe
abortion services in Nepal**



RIGHT HERE
RIGHT NOW



This reference document has been published with technical support of National Youth Council and Right Here Right Now (RHRN) Nepal platform. The National Youth Council (NYC) is an autonomous government organization under the Ministry of Youth and Sports established in 2016 A.D. after having felt the need of a separate mechanism for achieving post conflict peace, economic and social transformation by systemically addressing the issues of youth concern. The focused agendas of NYC are youth entrepreneurship, skill and leadership development, research and innovation and creation of jobs focusing on agriculture, tourism, energy, infrastructure and herbal plants. Right Here Right Now (RHRN) Nepal platform is a strategic partnership between fifteen(i) likeminded youth-led and youth-serving organizations, that are advocating for enhanced experience of young people on sexual and reproductive health, focused on three thematic areas - provision of age-appropriate comprehensive sexuality education, legalization of marriage equality and provision of stigma-free, youth-friendly safe abortion services. Visible Impact, which is a partner organization of Right Here Right Now, is a young woman led organization that aims to bring visible impact on the lives of every woman, every girl and every youth by unleashing the social and economic leadership of girls, women and youth through human centered approaches.

Authors

Medha Sharma
Laxman Bhattarai
Riya Parajuli
Anshu Bhoosal

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For further information, please contact:



Visible Impact

212/48 Dhapasi Marga, Basundhara, Kathmandu, Nepal
mail.visim@gmail.com || www.visim.org.np



Right Here Right Now Nepal

Secretariat: YUWA
310 Krishna Dhara Marga, Maharajgunj
4419489, 01-4418747
info@yuwa.org.np || www.yuwa.org.np

¹Association of Youth Organization Nepal (AYON), Beyond Beijing Committee (BBC), Blue Diamond Society (BDS), Centre for Karnali Rural Promote and Society Development (CDS-Park), Family Planning Association of Nepal (FPAN), Federation of Sexual and Gender Minorities Nepal (FSGMN), Human Development and Empowerment Protection Forum (HUDEP), LOOM Nepal, Restless Development, Rural Women's Network (RUWON), Visible Impact, Youth Action Nepal, Youth Development Center (YDC), YUWA, Yuwakaya

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WHO IS THIS REFERENCE DOCUMENT FOR?

This is a reference document for any policymaker who wants to support the advocacy on young people's access to quality, stigma free and youth friendly safe abortion services. This document has sections on current social and legal contexts, that can be useful to anyone working for and with young people's access to safe abortion services. The section on roles as a policy maker is designed especially for local and provincial level parliamentarians, government, political leaders, bureaucrats and social leaders.

CALL TO ACTION

Right Here Right Now has taken the long-term objective – “By 2020, youth friendly and stigma free safe abortion services are accessible and available through establishment of effective implementation mechanisms at national and provincial level.”

DEFINITION/ TERMINOLOGIES

Abortion refers to a voluntary intervention to terminate an unwanted, mistimed, or unplanned pregnancy. The persons, skills and medical standards considered safe in the provision of abortion are different for medical and surgical abortion and depend on the duration of the pregnancy (1).

Safe abortion refers to abortion that is done with a method recommended by World Health Organization (WHO) (i.e. medical abortion, vacuum aspiration, or dilatation and evacuation), is appropriate to the pregnancy duration, and is provided by a trained health-care provider (2).


WHO defines “**Unsafe abortion** as a procedure for terminating

an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking minimal medical standards or both.” **Less safe abortion** refers to abortion that only meets one of two criteria – i.e. either the abortion is done by a trained health-care provider but with an outdated method (e.g. sharp curettage) or a safe method of abortion (e.g. misoprostol) is used but without adequate information or support from a trained individual (2).

In Nepali, abortion is termed as Garbhapatan, which literally translates to “collapse of pregnancy”. Words that promote positive connotation such as termination or of pregnancy (garbha ko samapti), should be used instead of stigmatizing words such as fetal killing (bhrunhatya), murder of child (bacha marne), etc.

ABORTION AS A HUMAN RIGHT

This document does not advocate for increasing or promoting abortion, but rather aims to make every abortion safe, legal and stigma free, performed by



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any women through "informed choice". Informed choice means that the woman is aware about the process, pros and cons of undergoing abortion, and chooses to do so, under unavoidable circumstances or out of choice. The autonomy over her body, and the right to make decisions independently is every women's fundamental right. This document and RHRN platform believe in and urges everyone, to place abortion within women's rights-based perspectives.

ABORTION IN NATIONAL CONTEXT

Nepal legalized abortion in 2002 and legally started implementation in 2003; in response to advocacy efforts

that attributed the high rates of maternal morbidity and mortality to unsafe abortions. Before 2002, abortion laws of Nepal prosecuted and imprisoned women and their family members for undergoing pregnancy terminations (3).

First-trimester surgical abortions were made available throughout the country in 2004. Second-trimester abortion training began in 2007, and medical abortions were introduced in 2009(3). The landmark 2009 Supreme Court decision in *Lakshmi Dhikta v. Nepal* considered the abortion as an issue of women's human rights (4) and a part of the reproductive rights & right to self-determination (5). In August 2016, the Government of Nepal



announced a plan to implement free safe abortion services in public clinics, in combination with the provision of free family planning services, to help overcome the economic burden of accessing safe abortion service (6). In 2018, Safe Motherhood and Reproductive Health Act 2075, served as another landmark document in identifying safe abortion as a women's right, and revised some legal conditions for abortion addressed in Safe

Abortion Policy 2002.

The Constitution of Nepal 2009 recognizes sexual and reproductive health and rights (SRHR) as a fundamental human right of every citizen. (7) Ever since the safe abortion policy was implemented, Nepal has seen great progress in reducing maternal mortality, and also received Millennium Development Goal award for doing so (8).



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SAFE MOTHERHOOD AND REPRODUCTIVE HEALTH RIGHTS ACT (SMARHR ACT)

According to this recent Act, abortion is legal in Nepal under following conditions upon the consent of a pregnant women:

1. With the consent of pregnant women, up to 12 weeks of pregnancy.
2. If the pregnancy results from rape or incest, up to 28 weeks of pregnancy, with the pregnant women's consent.
3. Up to 28 weeks of pregnancy, if the pregnancy poses danger to the life or physical or mental health of the pregnant woman or the chance of a birth of a severely physically deformed child as per the suggestion from certified health service provider, with the consent of the woman.
4. Up to 28 weeks of pregnancy if the pregnant women suffer from HIV or any such other incurable diseases, with her consent.
5. Up to 28 weeks of pregnancy if the fetus is suffering from a severely debilitating or fatal deformity, as certified by an expert physician.

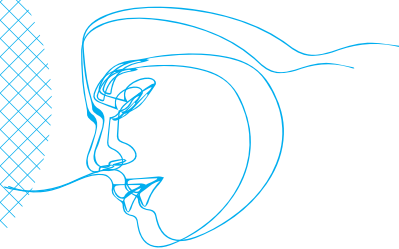
Punishable under the following conditions

1. Abortion without the consent of pregnant women
2. Sex selective abortions
3. Abortion performed outside the legally permissible conditions

Additional Considerations

1. Following the legal criteria, in a certified health facility; a certified health service provider must provide safe abortion services to pregnant women.
2. The service will be provided using appropriate technology and process mentioned in the Act.

3. The pregnant woman seeking safe abortion service should give her consent to the certified health facility or the certified health service provider as per the format designed.
4. In case the pregnant woman cannot give her consent on the very moment, is mentally incompetent or hasn't completed 18 years of age; her guardian can give their consent.
5. If the service seeing pregnant woman hasn't completed 18 years of age, safe abortion service should be provided as per her optimal wellbeing.





INTERNATIONAL HUMAN RIGHTS TOOLS THAT ADDRESS SAFE ABORTION


1. INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT (ICPD) PLAN OF ACTION

Nepal, as a co-signatory in 1994 to the Plan of Action of the ICPD, has committed to ensure women's universal access to reproductive health as well as equal access to all other health services.

Paragraph 7.3 of the ICPD PoA states that "Reproductive rights rest on the recognition of the basic right of couples and individuals to decide freely and

responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents."

ICPD PoA, Paragraph 7.45 states "Countries must ensure that the programs and attitudes of health care providers do not restrict



the access of adolescents to appropriate services and information they need, including on sexually transmitted diseases and sexual abuse. Services must safeguard the rights of adolescents to privacy, confidentiality, respect and informed consent, respecting cultural values and religious beliefs.”

Paragraph 7.46 states that “Countries should protect and promote the rights of adolescents to reproductive health education, information and care and greatly reduce the number of adolescent pregnancies”

Chapter 4 of ICPD PoA states “Ensuring women’s ability to control their own fertility, are cornerstones of population and development related program”.


2. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) CONCLUDING RECOMMENDATIONS TO NEPAL

As per the concluding observation of Nepal’s 6th Periodic review [2018], the Convention on Elimination of all Forms of Discrimination Against

Women (CEDAW) committee recommends Nepal Government to: “Amend the safe motherhood and reproductive health rights act to fully decriminalize abortion in all cases, to legalize it at least in case of risk to the health of the pregnant women, additionally to the cases of rape, incest, severe fetal impairment and risk to the life of the pregnant women that are already legalized, and allocate sufficient resources to raise awareness on safe abortion clinics and services;” (9).

3. BEIJING PLATFORM FOR ACTION (1995)

Beijing Platform for Action, Paragraph 92 states to secure women’s right to the enjoyment of the highest standard of health throughout the whole lifecycle in equality with men. Paragraph 106(c) states to remove all barriers to women’s health services and provide a broad range of healthcare services. Paragraph 106(f) states to design health information, services and training for health workers so that they are gender- sensitive and affirm the user’s right to privacy and confidentiality. Similarly, according to Paragraph 107(e) to provide



“Countries should protect and promote the rights of adolescents to reproductive health education, information and care and greatly reduce the number of adolescent pregnancies”

more accessible, available and affordable primary health-care services of high quality, including sexual and reproductive health care, which includes family planning information and services, and giving particular attention to maternal and emergency obstetric care.

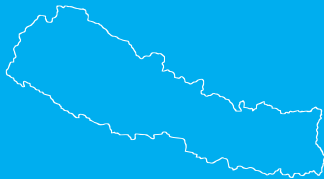
4. SUSTAINABLE DEVELOPMENT GOALS (SDGs)

Target 3.7 of Goal 3 of Sustainable Development Goals states: By 2030, ensure universal access to sexual and reproductive health-care services, including family planning, information and education, and the integration of reproductive health into national strategies and programs. Target 5.6 of Goal 5 states: Ensure

Universal access to Sexual and reproductive Health and sexual and reproductive rights as agreed in accordance with the Programme of Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences.

5. UNIVERSAL PERIODIC REVIEW (UPR) CONCLUDING RECOMMENDATIONS TO NEPAL

In the second cycle of Universal Periodic Review (UPR, 2016) of Nepal, New Zealand recommended Nepal to continue to implement measures to ensure all women and girls have equal access to quality sexual and reproductive healthcare, which was accepted by Nepal.



CURRENT CHALLENGES IN ADDRESSING SAFE ABORTION SERVICES IN NEPAL

Issues in the policies

Limiting the age to seek safe abortion services to 18 years is one of the loop holes to the Safe Motherhood and Reproductive Health Act (SMRHA) This restricts the pregnant women less than 18 years of age to exercise her right over her, in a country where 17% have begun childbearing before 19 years. Moreover, the Criminal Code contradicts with the SMARHA, as criminal code has described abortion as a punishable crime.

Stigma

Stigma against abortion is a fundamental barrier to accessing abortion services. Social and cultural impediments contribute to delays in seeking abortion to a time beyond the limit set by the law and thus leaving no option for women other than having an unwanted birth or a clandestine risky abortion. A study conducted in 2016 in Makawanpur district of Nepal, showed that people label women who had abortion with derogatory words such as sinner

(papini), ill-luck (alichhini), murderer (jyanmaara), and fetus killer (garbhaghathi). In some cases, the women who had abortion were even prohibited from religious activities. In addition, service providers and spouses of abortive women were also stigmatized and seen as bad persons (10).


“Sanu Maya (name changed), aged 24, from Sindhuli already had 2 daughters and a son, when she found out she was pregnant. Realizing another child would be a burden, she decided to terminate the pregnancy, but was afraid to go to the health facility due to stigma. She took a gulp of 5/6 painkillers at home. She claims that it did the job as she bled for 10 days then. Sanu said she is aware that this abortion might lead to health problems, but she is still afraid to go to the health facility due to stigma. Even though Nepal has progressive and liberal abortion laws, the way abortion stigma manifests in silence leads young women to seek unsafe abortion. Had it not been for that stigma, this woman might have chosen to walk into a health facility to seek safe and legal abortion care” (11).

Inadequate access to information

Only 41% women aged 15-49 are aware that abortion is legal in Nepal. Those living in urban areas, especially province 1, and with higher level of education have found to be more aware in comparison. A qualitative study suggests that abortion can lead to extra-marital relationships, women seeking or receiving abortion care may feel less empowered to ask questions, challenge poor treatment, or disclose their clinical history, or they may seek abortion services at higher gestation and visit unsafe providers. (12).

Inadequate access to services

Safe abortion service sites are available in all the districts free of charge, but that does not ensure the accessibility of the service. The poor infrastructure and unavailability of service providers, often resulted in women seeking abortion services from other districts and neighboring country which causes high out of pocket expenditure (11). The safe abortion services available have not been able to adequately address special needs of



vulnerable and disadvantaged groups such as refugee and displaced women, women living with HIV, women with disability, etc. Privacy and confidentiality of service seekers plays an important role to ensure utilization of safe abortion services. Though Government of Nepal has addressed privacy and confidentiality as sexual and reproductive health rights, there are service seekers who believe private sites maintain better privacy than the public safe abortion sites [13].

“Karuna Shahi, 26 years woman from Mugu, never went to school. 3 years ago, she took abortion service because she had 4 daughters already. She

decided to choose abortion in another city, assuming there is better service. In total, she paid NPR ~USD125 directly to the hospital, and in total ~USD 800 including other indirect costs. When she returned home after abortion, bleeding still continued, which she tried to stop using local herbs, but in vain. Only after 3 months, she decided to go for post abortion care, but then her bleeding stopped and she decided not to go. However, if she had to go to Nepalgunj again, she would have to spend another ~USD800 again. Since farming is the only occupation, she had to borrow money from others, and could pay the debt only in 2 years” [11].

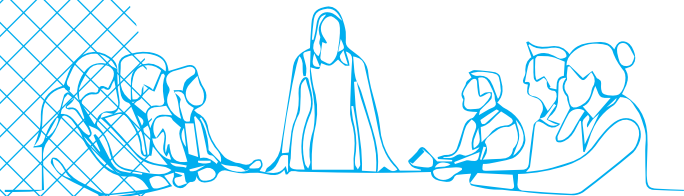


7 THINGS YOU CAN DO AS A POLICY MAKER

1. Develop province specific policy documents

Article 40 of The Safe Motherhood and Reproductive Health Act 2075, acknowledges that every province can develop province specific directive for the Act. As a policy maker, you can play an important role to initiate formulation of provincial policies, directives, acts or other policy documents, address adolescent/ youth friendly health services in those documents, and invite young people in discussions related to those documents.





2. Invite young people to policy tables.

Nepal currently has population bonus, where the productive population of youth comprise of 40.3% of the total population (14). Following “nothing for youth without youth” principle, it is important to ensure that young people are on the table during important policy dialogues and discussion, related to youth but also on other cross cutting issues. You can invite the youth activist of your province in your programs, dialogues and discussions, trainings as participants or facilitators, so that the skills exchange can occur between youth and adult.

3. Advocate for reducing abortion stigma

You can incorporate the issue of young people's SRHR in the meetings, discussions and program you attend, and sensitize peer and fellow policy makers regarding the importance of providing quality, stigma free and youth friendly safe abortion services. Additionally, you can specially advocate to

- Remove third-party authorization requirement to seek safe abortion services by the adolescent girls (under 18).
- Remove the limit to the length of pregnancy at which abortion can be performed but within the conditions mentioned in the Act.
- Promote non-stigmatizing language (such as abortion instead of fetus killing, child killing) and pictures.



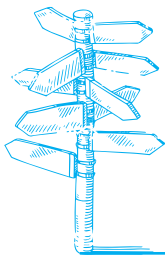


4. Allocate budget for safe abortion

Literatures have shown that only providing training to the service providers do not ensure that they are competent enough to practice the knowledge they have gained. In addition to the trainings, proper monitoring and supervision mechanisms should be placed, standards and guidelines need to be followed, human resource and supplies need to be made available. You can advocate to allocate adequate budget towards safe abortion services – that can come from the budget headings of health, girls and women, and adolescents.

5. Expand safe abortion sites

Safe abortion sites are available at all the districts of Nepal, but this does not ensure that they are accessible, usually due to the sites being far. According to the Nepal Living Standard Survey (NLSS) 2010/2011, only 62% of households had access to a health facility within a walking distance of 30 minutes (15). As a policymaker, you can work to expand the safe abortion sites and ensure that at least two safe abortion service providers are available on each site, with medications and equipment available throughout the year. Since, abortion is integrated with social context, the service providers need to be provided with value clarification training regularly.





6. Ensure adolescent friendly safe abortion services

Though Adolescent Friendly Health Services (AFHS) is one of the key programs run by Government to ensure that public health institutions are adolescent friendly, barriers exist for adolescents and youth to obtain these services, such as inconvenient visit hours, lack of confidentiality, judgmental attitude of service providers, integrated service location, etc. Even sites certified as AFHS sites have not been able to provide quality service due to lack of monitoring mechanism. Surveys conducted in AFHS certified sites in Kathmandu found that among 13 health facilities, 4 were not operational and do not comply with the standards mentioned in the implementation guideline (16,17). You can support by initiating development of monitoring frameworks and ensuring quality services in your province.

7. Ensure Comprehensive Sexuality Education (CSE) in school curriculum

International Planned Parenthood Federation (IPPF) defines CSE as a rights-based approach to equip young people with the knowledge, skills, attitudes and values they need to determine and enjoy their sexuality – physically and emotionally, individually and in relationships (18). Nepal has been progressively moving forward to include SRHR in school curriculum and making it age appropriate. But positioning “Health” as an optional subject is viewed as backlash to ensuring young people’s access to SRHR information. Since the local government has the autonomy, to develop the curriculum or make alterations to the existing national curriculum, they can play an important role in making “Health” a compulsory subject, and also incorporate other SRHR issues relatable to their local context in the school curriculum.



REFERENCES

1. Gfmer.ch. [2018]. COMPILATION OF THE WORLD HEALTH ORGANIZATION'S CURRENT RECOMMENDATIONS ON ADOLESCENT SEXUAL AND REPRODUCTIVE HEALTH. [online] Available at: <https://www.gfmer.ch/SRH-Course-2018/adolescent-health/pdf/WHO-compilation-tool-abortion-section-2018.pdf> [Accessed 25 Jun. 2019].
2. Ganatra B, Gerdtts C, Rossier C, et al. Global, regional, and sub-regional classification of abortions by safety, 2010-14: estimates from a Bayesian hierarchical model. *Lancet* (London, England). 2017;390(10110):2372-2381.
3. Wu W-J, Maru S, Regmi K, Basnett I. Abortion care in Nepal, 15 years after legalization: Gaps in access, equity, and quality. *Health and human rights*. 2017;19(1):221.
4. Abortion law reform in Nepal. *Upreti M Int J Gynaecol Obstet*. 2014 Aug; 126(2):193-7.
5. Supreme Court of Nepal. *Lakshmi Dhikta v. Government of Nepal*. 2009 <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Lakshmi%20Dhikta%20-%20English%20translation.pdf> Writ petition no. WO-0757, 2067.
6. Rogers C, Sapkota S, Tako A, Dantas JA. Abortion in Nepal: perspectives of a cross-section of sexual and reproductive health and rights professionals. *BMC women's health*. 2019;19(1):40
7. Constitutionnet.org. [2007]. THE INTERIM CONSTITUTION OF NEPAL 2063 [2007]. [online] Available at: http://constitutionnet.org/sites/default/files/interim_constitution_of_nepal_2007_as_amended_by_first_second_and_third_amendments.pdf [Accessed 15 Jun. 2019].
8. Bhandari A, Gordon M, Shakya G. Reducing maternal mortality in Nepal. *BJOG* 2011;118 [Suppl. 2]:26-30.
9. CEDAW. Concluding observations on the sixth periodic report of Nepal. 2018.
10. Shrestha DR, Regmi SC, Dangal G. Abortion: Still Unfinished Agenda in Nepal. *Journal of Nepal Health Research Council*. 2018 Mar 18;16(1):93-8.
11. Visible Impact. A study on Young people's experience with abortion services in Nepal. 2018.
12. Puri M, Lamichhane P, Harken T, Blum M, Harper CC, Darney PD, et al. "Sometimes they used to whisper in our ears": health care workers' perceptions of the effects of abortion legalization in Nepal. *BMC Public Health*. 2012; 12(1):297.
13. Tamang L, Singh A, Shrestha LS, Ghimire R. Beyond Beijing Committee, Asian-Pacific Research and Resource Center for Women. Identifying Barriers to Accessibility and Availability of Safe Abortion Services among Young Women in Makwanpur. 2019.
14. Unstats.un.org. [2012]. National Population and Housing Census 2011 (National Report). [online] Available at: <https://unstats.un.org/unsd/demographic-social/census/documents/Nepal/Nepal-Census-2011-Vol1.pdf> [Accessed 10 May 2019].
15. Mehata, S., Baral, S.C., Chand, P.B., Singh, D.R., Poudel, P., Barnett S., 2013. Nepal Household Survey 2012. Ministry of Health and Population, Government of Nepal: Kathmandu, Nepal.
16. Regmi PR, Van Teijlingen E, Simkhada P, Acharya DR. Barriers to sexual health services for young people in Nepal. *Journal of health, population, and nutrition*. 2010; 28(6):619.
17. Devkota K and Ban A. Friendly health services: For adolescents. 2017. URL: <https://thehimalayantimes.com/opinion/friendly-health-services-adolescents/>
18. IPPF. IPPF Framework for Comprehensive Sexuality Education (CSE). 2006

